

 ORIGINAL

1 Kawamoto.disclose
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FILED
DISTRICT COURT OF GUAM

FEB 07 2008 *ms*

JEANNE G. QUINATA
Clerk of Court

7 | Attorneys for United States of America

**IN THE UNITED STATES DISTRICT COURT
FOR THE TERRITORY OF GUAM**

11 UNITED STATES OF AMERICA,
12 Plaintiff,
13 vs.
14 FRANCISCO SAN NICOLAS KAWAMOTO,
15 Defendant.

CRIMINAL CASE NO. 08-00004

**UNITED STATES APPLICATION
TO DISCLOSE CERTAIN TAX
INFORMATION**

COMES NOW the United States of America, by and through undersigned counsel, and moves this Honorable Court for an order allowing the government to disclose to Stephanie Flores certain records obtained from the Internal Revenue Service (IRS) and the Guam Department of Revenue and Taxation (Guam Rev/Tax) concerning taxpayer identification numbers (TINs). On February 3, 2006, the court issued an Order, Misc. Case No. 06-00001, directing the IRS to disclose to the U.S. Attorney's Office any information it held on 64 specifically Taxpayer Identification Numbers. On March 2, 2006, the court issued an Order, Misc. Case No. 06-00005, directing the Guam Department of Revenue and Taxation to disclose to the U.S. Attorney's Office any information it held on Taxpayer Identification Number XXX-XX-0203. On June 20, 2006, the court issued an Order, Misc. Case No. 06-00017, directing the Internal Revenue Service to disclose to the U.S. Attorney's Office any information it held on 25 specifically

1 identified TINs. On November 21, 2006, the court issued an Order, Misc. Case No. 06-00033,
2 directing the Internal Revenue Service to disclose to the U.S. Attorney's Office any information
3 it held on ten specifically identified TINs. On June 12, 2007, the court issued an Order, Misc.
4 Case No. 07-00015, directing the Internal Revenue Service to disclose any information
5 concerning one particularly named TIN. Pursuant to these orders, the U.S. Attorney's Office
6 received numerous records and other information concerning the legitimacy of the TINs named
7 in the above-referenced orders.

8 Defendant Kawamoto was indicted in the above-entitled matter, and made his initial
9 appearance January 29, 2008. Kawamoto is accused of conspiring with Eun Young Lee to
10 fraudulently procure Guam driver's licenses by creating phoney IRS letters purporting to assign
11 Taxpayer Identification Numbers to individuals. As part of the discovery due to the defense
12 under Federal Rule of Criminal Procedure 16, the government will have to reveal all the IRS data
13 it received pursuant to the above-referenced orders, so that the defense can evaluate the strength
14 of the government's case. Specifically, the defense will need to determine whether in fact the
15 government's allegation that defendant Kawamoto accepted letters bearing false TINs or used
16 TINs which belonged to other individuals, is true. Because the government would be introducing
17 at trial IRS documents relating to the TINs which were used to fraudulently issue Guam driver's
18 licenses, such documents are subject to discovery under Federal Rule of Criminal Procedure 16.

19 The release of such information is allowed by Title 26, United States Code, §
20 6103(h)(4)(B), which allows the disclosure of return or return information in a Federal judicial
21 proceeding if the treatment of an item reflected on such return is directly related to the resolution
22 of an issue in the proceedings, and by § 6103(i)(4)(A)(i), which allows disclosure of information
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1 "probative of a matter in issue relevant in establishing the commission of a crime or the guilt or
2 liability of a party."

3 Respectfully submitted this 7th day of February, 2008.

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5 LEONARDO M. RAPADAS
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Districts of Guam and NMI
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10 By: 
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12 Assistant U.S. Attorney
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